

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

<b>IN RE: REALPAGE, INC., RENTAL SOFTWARE ANTITRUST LITIGATION (NO. II)</b>	) ) ) ) ) )	<b>NO. 3:23-cv-03071 MDL No. 3071  THIS DOCUMENT RELATES TO:  ALL CASES</b>
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**JOINT STATUS REPORT**

**I. Settlement**

**A. Updated Status as of March 29, 2024**

Plaintiffs have reached settlement agreements in principle with Defendants Apartment Income REIT, Corp., d/b/a AIR Communities (“AIR”); Avenue5 Residential, LLC; and Pinnacle Property Management Services, LLC (“Pinnacle”). Plaintiffs are working with AIR and Pinnacle to document their in-principle settlement agreements, and subsequently file with the Court preliminary approval papers.

Scheduled and prior mediation sessions are as follows:

Scheduled for April 8, 2024 Mediation in Washington, D.C. with Layn Philips	Bell Partners, Inc. (“Bell”), BH Management Services, LLC (“BH”), Camden Property Trust (“Camden”), ConAm Management Corporation (“ConAm”), Equity Residential (“Equity”), Greystar Management Services, LLC, (“Greystar”), Highmark Residential (“Highmark”), LLC, Independence Realty Trust, Inc. (“IRT”); Lincoln Property Co. (“Lincoln”), Morgan Properties Management Company, LLC (“Morgan Properties”), RealPage, Inc., RPM Living, LLC (“RPM”), Security Properties Residential, LLC (“Security Properties”), Sherman Associates, Inc. (“Sherman”), The Related Companies, L.P. and Related Management Company, L.P. (“Related”), Thoma Bravo, L.P., Thoma Bravo Fund XIII, L.P., Thoma Bravo Fund XIV, L.P. (“Thoma Bravo”), Thrive Communities Management, LLC (“Thrive”), UDR, Inc. (“UDR”), Windsor Property Management Company (“Windsor”), WinnCompanies LLC and WinnResidential Manager Corp. (“Winn”).
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Participated in March 15, 2024 Mediation with Layn Phillips and Clay Cogman (10 hours)	Defendants Apartment Management Consultants, LLC (“AMC”); Bozzuto Management Company (“Bozzuto”); First Communities Management, Inc. (“FCM”); FPI Management, Inc. (“FPI”); Mission Rock Residential, LLC; Rose Associates Inc. (“Rose”); Sares Regis Group Commercial, Inc. (“Saris Regis”); and ZRS Management, LLC (“ZRS”).
Participated in October 24, 2023 Mediation with Layn Phillips and Clay Cogman (6 hours)	Plaintiffs and Defendants AIR; Allied Orion; Brookfield Properties Multifamily LLC (“Brookfield”); CH Real Estate Services, LLC; ConAm; CONTI Texas Organization, Inc., d/b/a CONTI Capital (“CONTI”); Cortland Management, LLC (“Cortland”); CWS Apartment Homes LLC (“CWS”); Dayrise Residential, LLC (“Dayrise”); ECI Management, LLC (“ECI”); Essex Property Trust, Inc. (“Essex”); FCM; Independence Realty Trust, Inc. (“IRT”); Kairoi Management, LLC (“Kairoi”); Knightvest Residential (“Knighvest”); Lantower Luxury Living, LLC (“Lantower”); Mid-America Apartment Communities, Inc. and Mid-America Apartments, L.P. (“MAA”); Mission Rock; Morgan Properties; Prometheus Real Estate Group, Inc.; Related; Rose; Simpson Property Group, LLC; Sares Regis Group Commercial, Inc.; Sherman; Trammell Crow Residential Company and Crow Holdings, LP; Windsor Property Management Company; Winn. <sup>1</sup>

**Plaintiffs and Defendants who participated in these mediations have continued discussions through the mediators and bilaterally.**

**As to the remaining Defendant, Knightvest, the parties are now engaged in case resolution discussions.**

**The parties do not currently view any legal issues as an impediment to settlement. Plaintiffs believe that fulsome discovery, however, will be needed to contribute to more robust and meaningful settlement discussions going forward.**

## **II. Discovery**

- A. Below is the status of each of the following, including the date the described discovery was served, the deadline for response, and any known or anticipated discovery issues (e.g. preservation of evidence, privilege issues, or confidentiality

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<sup>1</sup> This mediation was also attended by Defendants Campus Advantage, Inc.; Cardinal Group Holdings LLC; CA Ventures Global Services, LLC; and Timberline Real Estate Ventures LLC, all of which have since been dismissed from the case.

issues). Fact discovery must be completed by November 21, 2025. (Dkt. 818 at 2.)

1. Requests for Documents

(a) **March 29, 2024 Report:**

(i) **Plaintiffs**

**Plaintiffs served their First Set of Requests for Production and Second Set of Requests for Production on February 16, 2024. On March 18 and 19, 2024, most Defendants<sup>2</sup> served their responses and objections to those requests. Plaintiffs are in the process of conferring with each Defendant about those responses and objections. The parties began meeting and conferring with Defendants regarding proposed document custodians on March 9, 2024, and those discussions are ongoing.<sup>3</sup>**

(ii) **Defendants**

**Defendants served their First Set of Requests for Production on March 4, 2024. Plaintiffs' deadline to respond is April 3, 2024.**

2. Depositions

(a) **March 29, 2024 Report: No deposition notices have yet been served.**

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<sup>2</sup> Defendants Rose, Sares Regis and the Thoma Bravo Defendants negotiated extensions to their deadlines to serve their responses and objections. The Thoma Bravo Defendants will serve their responses and objections on the agreed-upon deadline of March 29, 2024. Sares Regis will serve their responses and objections within 5 days, and Rose within 10 days, after transfer back to this Court. Consistent with their previous submissions in the *Kabisch* matter, CONTI and Prometheus did not serve their responses and objections by this date. *See* Dkt #776 at 1 n.1. CONTI did not serve responses and objections as to *Vincin*. Meet and confers with CONTI and Prometheus are ongoing. AMC was served with Plaintiffs' First and Second Sets of Requests for Production on March 22, 2024, to which responses are due April 22, 2024.

<sup>3</sup> Defendants CONTI, Prometheus, and Rose have not yet met and conferred with Plaintiffs regarding custodians during the pendency of their transfer back into this MDL.

3. Requests for Admissions

- (a) **March 29, 2024 Report:** No requests for admission have yet been served.

4. Interrogatories

- (a) **March 29, 2024 Report:**

(i) **Plaintiffs**

**Plaintiffs served their First Set of Interrogatories to Owner, Owner-Operator, and Manager Defendants on March 22, 2024, to which responses are due on April 22, 2024.**

(ii) **Defendants**

**Defendants served their First Set of Interrogatories on Plaintiffs on March 7, 2024, to which responses are due April 8, 2024. Defendants served their Second Set of Interrogatories on Plaintiffs on March 15, 2024, to which responses are due on April 15, 2024.**

5. Other

- (a) **March 29, 2024 Report: Initial Disclosures**

(i) **Plaintiffs**

**Plaintiffs served their Rule 26(a)(1) initial disclosures on February 26, 2024. Plaintiffs served supplemental Rule 26(a)(1) initial disclosures on March 7, 2024.**

(ii) **Defendants**

**Certain Defendants served their Rule 26(a)(1) initial disclosures on February 26 and February 27, 2024.<sup>4</sup>**

- B. Describe with specificity any issues regarding "structured data discovery."

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<sup>4</sup> As to the severed and transferred *Kabisch* matters, Plaintiffs are conferring with CONTI, Prometheus, and Rose about their disclosures upon transfer back to this Court. Plaintiffs are conferring with CONTI regarding CONTI's position as to *Vincin* with respect to disclosures.

1. **March 29, 2024 Report:** At this time, there are no issues regarding structured data discovery.

C. Describe with specificity all discovery completed since the last status conference.

1. **March 29, 2024 Report**

UDR made an initial production on March 18 and intends to continue producing documents on a rolling basis.

The following Defendants have produced one or more documents since the last status conference and also intend make a further production by the April 26, 2024, deadline: ConAm; FCM (an insurance agreement and additional documents); FPI (an insurance agreement); RealPage; and Thoma Bravo (an insurance agreement).

The following Defendants have not produced any documents or data since the last status conference, but intend to make an initial document production by the April 26, 2024, deadline: Allied, Bell, BH, Bozzuto, Brookfield, Camden, CH, Cortland; CWS; Dayrise; ECI; Equity; Essex; Greystar; Highmark; SPR; Sherman; Simpson; IRT; Kairoi; Knightvest; Lantower; Lincoln; MAA; Mission Rock; Morgan Properties; Related; Rose; RPM Living; Sares Regis; Thrive; Trammell Crow; Windsor; Winn; and ZRS.

The Court severed and transferred the Kabisch matter to W.D. Tex. (as to CONTI), S.D.N.Y. (as to Rose), and W.D. Wash. (as to Sares Regis and Prometheus). The JPML issued a CTO (CTO-6) on March 27, 2024, and the JPML has stayed entry of that order for 7 days. As to those matters, the parties are conferring with CONTI, Prometheus, and Rose about responding to Plaintiffs' requests upon transfer back to this Court. The parties are conferring about CONTI's position as to the Plaintiff's claims in Vincin, for which CONTI did not serve responses to Plaintiffs' requests.

**Plaintiffs have agreed to defer discovery of Avenue5 based on their settlement in principle. AMC's responses to Plaintiffs' document requests are due April 21, 2024.**

- D. Describe with specificity all discovery anticipated to be served or for which the response deadline will expire before the next status conference.

**1. March 29, 2024 Report**

**Defendants do not anticipate serving any discovery before the next status conference. Plaintiffs anticipate that they will serve their responses and objections to Defendants' first and second sets of interrogatories before the May 17, 2024, status conference. Defendants anticipate that they will serve their responses and objections to Plaintiffs' interrogatories before the May 17, 2024, status conference.**

- E. Describe with specificity any pending or anticipated discovery related motions.

**1. March 29, 2024 Report: At this time, there are no pending or anticipated discovery related motions.**

- III. Does any party anticipate or has any party identified any issues arising from the Stipulation and Order on Federal Rule of Evidence 502 (Doc. No. 822). If so, please explain in detail.

**A. March 29, 2024 Report: At this time, no party anticipates or has identified any issues arising from the Stipulation and Order on FRE 502 (Doc. No. 822).**

- IV. Does any party anticipate or has any party identified any issues arising from the Case Management Order (Doc. No. 818). If so, please explain in detail.

**A. March 29, 2024 Report: At this time, no party anticipates or has identified any issues arising from the Case Management Order (Doc. No. 818).**

- V. Does any party anticipate or has any party identified any issues arising from the Order on Deposition Protocol (Doc. No. 816). If so, please explain in detail.

**A. March 29, 2024 Report: At this time, no party anticipates or has identified any issues arising from the Order on Deposition Protocol (Doc. No. 816).**

- VI. Does any party anticipate or has any party identified any issues arising from the Joint Electronically Stored Information (Doc. No. 815). If so, please explain in detail.

**A. March 29, 2024 Report: At this time, no party anticipates or has identified any issues arising from the Joint Electronically Stored Information Order (Doc. No. 815).**

VII. Does any party anticipate or has any party identified any issues arising from the Stipulation and Order on Expert Discovery (Doc. No. 814). If so, please explain in detail.

A. **March 29, 2024 Report: At this time, no party anticipates or has identified any issues arising from the Stipulation and Order on Expert Discovery (Doc. No. 814).**

VIII. Provide a proposed status conference agenda.

A. The parties have no proposed agenda items or topics to discuss at the status conference scheduled for April 5, 2024.

Verified by:

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### **CERTIFICATE OF SERVICE**

I hereby certify that on March 29, 2024, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/Dkt. system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

/s/ Tricia R. Herzfeld

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